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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,830	01/30/2002	Nir Cohen	82369	2428

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EXAMINER

NGUYEN, TAN D

ART UNIT PAPER NUMBER

3629

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/058,830

Applicant(s)

COHEN ET AL.

Examiner

Tan Dean D. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment of 7/17/2006 has been entered. Claims 1-8 are pending and rejected as followed.

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-4, 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) In claim 1, it's not clear the relationship between steps (a) to steps (b) or (c)? There are no discussion with respect to "the database" and "time series of observation" in steps (b) or (c.)? In a method claim, the steps must show relationship between the steps in order to achieve the scope of the claimed invention. Otherwise, the isolated step or unrelated step may not receive any patentable weight.

(2) Similarly, claim 5, which has similar limitation as in claim 1 above, is rejected for the same reason set forth above.

(3) Claim 3 is vague and indefinite and it's not clear how this claim further limits claim 2 above. Similarly, Claim 7, which has similar limitation as in claim 3 above, is rejected for the same reason set forth above.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-4, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of ROBERTAZZI et al.

As of 7/17/2006, independent method claim 1 is as followed:

1. (Currently Amended) Computer implemented method for computing demand forecast information for a demand forecast application capable of being graphically represented by a demand forecast tree having a single top level node with at least two branches directly emanating therefrom each having at least one node with a time series of observations associated therewith, the method comprising the steps of:

(a) providing a database for storing time series of observations;

(b) providing at least two computer servers each independently capable of computing demand forecast information for an entire branch of the demand forecast tree; and

(c) simultaneously computing demand forecast information for at least two branches of the demand forecast tree on two different ones of said computer servers.

Note that the phrase "capable of ....." carries no-patentable weight since this merely means "having potential of" or "having the capacity of", and in a claim language, no weight is given until the element or system is actually doing something with the capacity or capability, for example, computing a demand forecast information.

Therefore, as shown in the "Background of the Invention" on pages 1-2, AAPA fairly teaches the claimed invention except for step (c.). As discussed, AAPA mentions the current problem that the "run time" or "computing time" of the demand forecasting information is intolerably long due to increasing complicated demand forecast trees (strategies) and there is a need to shorten run time.

In a similar computer-implemented method for load (computing) sharing controller for optimizing resource utilization cost, ROBERTAZZI et al fairly teaches the breaking up the large group of tasks (tree or load) into multiple tasks (branches) for independent concurrent processing (computing or programming) among independent computer processors (servers) in order to complete the computations in a shorter period of time {see col.1, lines 21-67, col. 2, lines 40-45, col. 13, lines 50-67, Figs. 2, 6, 8}. It would have been obvious to modify the teachings of AAPA by breaking the overall job into discrete multiple tasks for independent concurrent processing using at least 2 computer servers (processors) in order to reduce computing time (or faster solution time, see col. 1, line 36-37) as taught by ROBERTAZZI et al above.

**As for dep. claims 2-3** (part of 1 above), which deal with well known allocation (dividing or sharing) parameters, these are fairly taught in ROBERTAZZI et al col. 1, lines 21-65.

**As for dep. claim 4** (part of 1 above), which deal with well known task (load) dividing parameters, i.e. total number of bottom level nodes of the branches of each task is substantially equal for all the tasks, these are fairly taught in ROBERTAZZI et al col. 1, lines 21-67, col. 2, lines 1-48.

**As for independent system claim 5**, which is the system to carry out the method of independent method claim 1 above, it's rejected over the system of ROBERTAZZI et al {see Fig. 3} to carry out the method claims as rejected in claim 1 above.

**As for dep. claims 6-8** (part of 5 above), which have the same limitations as in dep. claims 2-4 above, they are rejected over the system to carry out the method steps as shown in the rejections of dep. claims 2-4 above.

***Response to Arguments***

6. Applicant's arguments, see Amendment/Response, filed July 17, 2006, with respect to all the previous rejections have been fully considered and are persuasive. The various rejections of claims 1-8, as shown in office action filed on Jan. 17, 2006, have been withdrawn.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) US 5,298,370 by Tang et al, discloses a computer operating process allocating tasks between 1 and 2<sup>nd</sup> processors at run time based upon current processor load.

(2) US 6,363,411 by Dugan et al, discloses an intelligent network for load controlling and management.

(3) US 2002/0062454 by Fung discloses a dynamic power and workload management for multi-server system.

(4) US 2003/0036890 by Billet et al disclose a predictive method comprising decision trees and branches for forecasting purpose which is similar to the teachings of AAPA as cited above.

No claims are allowed.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

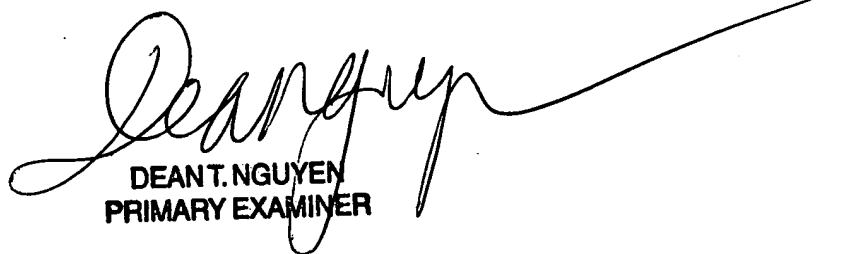
In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail [CustomerService3600@uspto.gov](mailto:CustomerService3600@uspto.gov).

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn  
November 6, 2006

  
DEAN T. NGUYEN  
PRIMARY EXAMINER